

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

**FEMHEALTH USA, INC., d/b/a
CARAFEM,**

Plaintiff,

v.

**RICKEY NELSON WILLIAMS, JR.;
BEVELYN Z. WILLIAMS, JR.;
EDMEE CHAVANNES; and AT THE
WELL MINISTRIES**

Defendants.

Civil Action No. 3:22-cv-00565

**Judge William L. Campbell, Jr.
Magistrate Judge Jeffery S. Frensley**

PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT

Plaintiff FemHealth, USA, Inc. d/b/a carafem ("Plaintiff" or "carafem") files this motion for entry of default judgment against Defendant At The Well Ministries ("ATW") and requests, pursuant to Fed. R. Civ. P. 55(b)(1) that the Clerk of Court enter a judgment in favor of carafem against ATW for carafem's statutory damages of \$5,000, plus post-judgment interest and court costs.

As support for this motion, carafem states as follows:

1. On April 11, 2024, the Clerk of Court entered a default against ATW for failing to answer or otherwise respond to carafem's Amended Complaint in this matter (Dkt. 152), which was properly served on ATW, via Bevelyn Williams, on August 26, 2022. (Dkt. 46.)

2. As a function of the entry of default against ATW by the Clerk of Court, all of the well-pleaded allegations in carafem's Amended Complaint are deemed admitted by ATW. *See Dominion Constr. & Architectural Servs., LLC v. Thomas Daniel Maxwell, d/b/a Maxwell's Welding*, 2024 WL 1747639, at *1 (M.D. Tenn. Apr. 23, 2024) ("Upon entry of default, well-

pleaded allegations relating to liability are taken as true.” (citing *In Re: Family Resorts of Am., Inc.*, 1992 WL 174539, at *4 (6th Cir. July 24, 1992)).

3. As of the filing of this Motion, ATW has taken no action to set aside the default entered by the Clerk of Court, and carafem is entitled to request entry of a default judgment against ATW by the Clerk of Court. Fed. R. Civ. P. 55(b)(1); see *Admiral Ins. Co. v. I.C.E. (US), Inc.*, 2021 WL 4820551, at *2 (M.D. Tenn. Oct. 15, 2021). “More specifically, when the plaintiff’s claim is for a sum certain, the clerk ‘on plaintiff’s request ... must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing....’” *Admiral Ins. Co.*, 2021 WL 4820551, at *2 (citing Fed. R. Civ. P. 55(b)(1)).

4. As set forth in carafem’s Amended Complaint, ATW is liable to carafem for violating the Freedom of Access to Clinic Entrances Act (“FACE Act”), 18 U.S.C. § 248, trespass to land, assault, and nuisance as a result of its conduct at carafem’s Mt. Juliet facility on July 28, 2022. (Dkt. 38 at ¶¶ 42–45, 52–60, 64–66.)

5. The FACE Act provides for statutory damages of \$5,000 per violation. 18 U.S.C. § 248(c)(1)(B). Because ATW is liable to carafem for violating the FACE Act, ATW is liable to carafem in the amount of \$5,000 in statutory damages. See *N.Y. ex rel. Spitzer v. Kraeger*, 160 F. Supp. 2d 360, 377–78 (N.D.N.Y. 2001) (“Since the defendants have violated FACE, they are subject to statutory damages of \$5,000 per violation.”); *Greenhut v. Hand*, 996 F. Supp. 372, 379 (D.N.J. 1998) (“[T]his court will grant plaintiff’s motion for summary judgment . . . and will award statutory damages in the amount of \$10,000 (\$5,000 per violation).”).

WHEREFORE, pursuant to Fed. R. Civ. P. 55(b)(1), carafem respectfully requests the Clerk of Court to enter a default judgment against carafem for the relief sought in its Amended Complaint. ATW has failed to plead or otherwise defend as required by the Federal Rules of Civil

Procedure. Carafem is, therefore, entitled to and hereby respectfully requests entry of judgment by default for the above-stated amount of \$5,000, plus post-judgment interest and court costs.

Dated: May 15, 2024

Respectfully submitted:

/s/ Sarah B. Miller

Sarah B. Miller

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing will be served this 15th day of May, 2024 by operation of the Court's CM/ECF system, e-mail, or via U.S. Mail, first class postage prepaid, on the parties as indicated below:

Via E-Mail

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/s/ Sarah B. Miller